

## Central Valley Regional Water Quality Control Board

26 April 2013

CERTIFIED MAIL  
7010 3090 0001 4843 1834

Marion Mahone  
60 Dorman Avenue  
San Francisco, CA 94124

CERTIFIED MAIL  
7010 3090 0001 4843 1858

Registered Agent:  
The Corporation Trust  
Company of Nevada  
311 S. Division Street  
Carson City, NV 89703

CERTIFIED MAIL  
7010 3090 0001 4843 1872

Agent for Service of Process:  
CT Corporation System  
818 West Seventh Street,  
2nd Floor  
Los Angeles, CA 90017

### ***HEARING FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2010-0541, TSAR NICOULAI CAVIAR, LLC, TSAR NICOULAI STURGEON FARM, WILTON, SACRAMENTO COUNTY***

Enclosed is Administrative Civil Liability Complaint (ACL Complaint) R5-2010-0541, which was issued on 16 September 2010 pursuant to California Water Code section 13385 for violations of Waste Discharge Requirements Order R5-2005-0080 (NPDES No. CA0085120) by Tsar Nicoulai Caviar, LLC (Discharger) at the Tsar Nicoulai Sturgeon Farm in Wilton. This ACL Complaint rescinded ACL Complaint R5-2010-0511, extended the period of violations from 1 January 2009 through 30 June 2010, and accounted for one \$4,000 payment.

This ACL Complaint was originally issued in 2010 and was sent to Ms. Mahone, the general manager of Tsar Nicoulai, LLC. The Discharger chose to waive its right to hearing within 90 days and asked to enter into settlement negotiations. During the negotiations, the Central Valley Water Board Prosecution Team and Tsar Nicoulai LLC discussed applying the penalty to a project to convert the sturgeon farm to a land-discharge only facility. Unfortunately, settlement discussions were stalled due to financial issues experienced by Tsar Nicoulai, LLC. Shortly thereafter a different ownership group (TNC Holding Company, LLC) took over the sturgeon farm, and determined that it would continue with a surface water discharge.

The Central Valley Water Board Prosecution Team is reinitiating the process to proceed to hearing because the Board is obligated by law to assess the mandatory minimum penalties described in California Water Code section 13385, and the outstanding ACL Complaint for \$23,000 remains to be addressed. Staff is pursuing this ACL Complaint against Tsar Nicoulai Caviar, LLC because it is the party responsible for payment of the penalties that occurred while it was the owner and operator of the sturgeon farm. In particular, Ms. Mahone is receiving this information because she was the person the Central Valley Water Board was negotiating with as the Discharger's general manager, and her address continues to be listed as the entity address for Tsar Nicoulai Caviar, LLC in both California and Nevada.

The Discharger may choose to proceed in one of the following ways:

1. Pay the proposed administrative civil liability and waive its right to a hearing by submitting a check for \$23,000 that references "ACL Complaint R5-2010-0541" made payable to the State Water Pollution Cleanup and Abatement Account no later than **24 May 2013**.
2. In the alternative, the Discharger may contest the ACL Complaint at a hearing before the Central Valley Water Board.

If the Central Valley Water Board does not receive a signed waiver and check for \$23,000 to satisfy the ACL Complaint by **24 May 2013**, this matter will be scheduled for the **25/26 July 2013** Board meeting in Rancho Cordova. This hearing will be governed by the attached Hearing Procedure, which has been approved by the Board Chair for use in adjudicating matters such as this one. This Hearing Procedure is similar to the Hearing Procedure originally sent with the ACL Complaint in 2010 with new due dates. Any objections to the Hearing Procedures must be received by Alex Mayer, whose contact information is listed in the Hearing Procedure, by **5:00 p.m. on 6 May 2013**.

If the Discharger chooses to pay the assessed civil liability, the settlement will be considered final pending receipt of the waiver and check for the full liability amount. The ACL Complaint has been issued for well over two years and no interested parties have commented on the proposed action during this period. However, should the Central Valley Water Board receive new information or comments, the Executive Officer may withdraw the ACL Complaint, return payment, and issue a new complaint. If the Central Valley Water Board does not hold a hearing on the matter, and if the terms of the final settlement are not significantly different from those proposed in the ACL Complaint, then there will not be additional opportunities for public comment on the proposed settlement. Once the settlement becomes final, it will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

In order to conserve resources, this letter transmits paper copies of the document to the Discharger only. Interested persons may download the documents from the Central Valley Water Board's Internet website at:

[http://www.waterboards.ca.gov/centralvalley/tentative\\_orders/](http://www.waterboards.ca.gov/centralvalley/tentative_orders/)

Copies of these documents can also be obtained by contacting or visiting the Central Valley Water Board's office weekdays between 8:00 a.m. and 5:00 p.m.

If you have any questions or comments regarding the ACL Complaint, please contact me at (916) 464-4835 or by email at [wwyels@waterboards.ca.gov](mailto:wwyels@waterboards.ca.gov).

*Original Signed by*

WENDY WYELS, Supervisor  
Compliance and Enforcement Section

Enclosures: ACL Complaint R5-2010-0541  
Hearing Procedure for 25/26 July 2013 Board meeting

cc w/ encl: Alex Mayer, Office of Chief Counsel, State Water Board, Sacramento  
Laura Drabandt, Office of Enforcement, State Water Board, Sacramento